

GOVERNMENT OF ANDHRA PRADESH

A B S T R A C T

Tribal Welfare – Khammam District – Revision Petition filed by Sri Vadde Gandhi S/o Subbaiah under Sec.6 of A.P.S.A.L.T.R,1959 against the orders of Agent to Government, Khammam in CMA No.25/2000, dated 29-12-2000 – Allowed – Orders – Issued.

SOCIAL WELFARE (LTR - 2) DEPARTMENT

G.O.Ms.No. 53

Dated:27-5-2009

Read the following:-

1.From Sri Vadde Gandhi S/o Subbaiah , Khammam, Revision Petition

Dt: 15/10/2001

2.Govt.Memo.No.17305/LTR-2/2001-1 & 2, Dt:28-11-2001.

3.From the HC of AP notice in WP No.8559/2002, dated 26-4-2002.

4.From the Collector, Khammam, Lr.Rc.CMA/25/2000, Dt:3/10/2006

5.Govt.Lr.No.17305/LTR-2/2001, Dt:16-7-2007 and 3-8-07.

ORDER:

In the reference first read above, Sri Vadde Gandhi S/o Subbaiah (non tribal) R/o Karivarigudem Village, Julurpad (M) Khammam District has filed Revision Petition before the Government under Sec.6 of A.P.S.A.L.T.R,1959 against the orders of Agent to Government Khammam in CMA No.25/2000, dated 29-12-2000 in respect of lands situated in Sy.No.211/3 to an extent of Ac.8.00 in Karivarigudem Village, Julurpad (M) of Khammam District. The grounds submitted by the Revision Petitioner are under:-

- a) the authorities below erred in not observing that admittedly the father of the petitioner by name Vadde Subbaiah was the pattedar of the land in dispute from 1959 onwards i.e. much prior to coming into force of the Regulation 1/59 and as such not applicable to the facts of this case.
- b) the authorities erred in not observing that admittedly there is no transfer of any immovable property i.e. the land in dispute in favour of the petitioner herein after coming into force of the said Regulation 1/59 as such the authorities have no jurisdiction to initiate the proceedings under Regulation 1/59 in view of the law laid down by Hon'ble Full Bench of High Court of AP in a case reported in AIR 1982 AP page:1 and by Hon'ble Supreme Court in a case reported in AIR 1996 Supreme Court page: 224.
- c) the observation of the Agent to Government that his father appeared and gave an application stating that he transferred the land to some persons and further he orally deposed that he had given the land on lease to some tribal are not referred to in the order of Spl.Deputy Collector(TW) Paloncha. No opportunity was given to the petitioner to cross examine the said person introduced himself as father of the petitioner. Absolutely there is no evidence on record to show that there was any such transfer as deposed by the person styling himself as father of petitioner.
- d) The authorities below erred in ignoring the fact that the petitioner inherited the land in dispute from his father Vadde Subbaiah who is admittedly recorded pattedar of the land in dispute since 1959 and Sec. 3 (4) of the Regulation 1/59 clearly says that succession or inheritance or disposition by will does not fall under the definition of "transfer" and as such the possession of the petitioner cannot be termed as contrary to Regulation 1/59, as there is no transfer of land in favour of the petitioner.

2. The brief history of the case is that the Spl.Deputy Collector(TW) Palwoncha initiated LTR case vide No.148/98/JLP and 264/98/JLP between non tribals. The Spl.Deputy Collector (TW) after observing the provisions under LTR passed the orders vide case No.148/98, dt.29-5-99 and stated that an extent of 0.06 gts. Of land in Sy.No.82 covered under LTR was dropped in favour of Sri Tatikonda Venkanna and an extent of Ac.3.12 gts in Sy.No.26/3 covered under the principles of Resjudicata and ordered in favour of Vadde Gopaiah S/o Atchaiah also ordered for

ejection of Sri Vadde Gandhi and Erla Ramanarsu or whomever was in possession of immovable property ie. Scheduled land in Sy. 214 and in Sy.211/3 extent of Ac.8.00 and directed the Mandal Revenue Officer to take the land into Government custody under cover of panchanama and assign the same to the landless poor tribals as per rules in force and dismissed the case vide No.148/98/JLP, dt.29-5-1999.

3. Aggrieved by the orders of Spl.Deputy Collector(TW) Palwoncha, revision petitioner filed an appeal before the Agent to Government Khammam The Agent to Government after observing the lower court records uphold the orders of lower court and dismissed the case vide CMA No.25/2000, dt.29-12-2000. Aggrieved by the orders of Agent to Government Khammam, since Vedda Gandhi filed a revision petition before the Government.

4. In the reference 2nd read above the Collector, Khammam was requested to furnish parawise remarks and case records the same were received from the Collector Khammam Dist. vide reference 3rd read above. After examination of the parawise remarks and case records, notices were sent to the concerned to attend the hearing of the revision petition on 16-8-2007 vide reference 5th read above. Counsel for petitioner present and submitted written arguments stating that-----

in the lower court i.e. Spl.Deputy Collector(TW) Paloncha in LTR case No.148/98/JLP and 264/98/JLP, a person was introduced as father of the petitioner and gave an application stating that he leased out the land in Sy.No.211/3 measuring Acs.8.00 to some tribal was not referred to in the order of the Spl. Dy. Collector (TW) and are not within the knowledge of the petitioner as the said incidents did not take place in the presence of the petitioner. No opportunity was given to the petitioner to cross-examine the said person who introduced himself as father of the petitioner. In fact father of the petitioner left the village about 40 years back and did not turn up. Absolutely there is no evidence on record to show that there was any such transfer as deposed by the person styling himself as father of the petitioner. Therefore, he has prayed to allow the Revision Petition.

5. Government after careful examination of material evidence of the lower court record in LTR case No.148/98/JLP, 264/98/JLP dated 29.5.1999 and CMA No.25/2000, dt. 28.12.2000 of Agent to Government, Khammam and Written arguments filed by the counsel for the petitioner observed that:

- 1) In the deposition stated to be given by father of the petitioner i.e. Vadde Subbaiah on 27.1.1999, before the Spl.Deputy Collector(TW) Paloncha in LTR case Nos. 148/98/JLP, 264/98/JLP dated 29.5.1999 it was mentioned that the land in Sy.No.211/3 measuring Acs.8.00 stands patta in his name was given on lease to a tribal viz., Banoth Rachalya about 15 years back (say in 1984) and after him, his son Sakru is cultivating. His son Vadde Gandhi has no right over the land. But, there is no documentary evidence such as lease deed, proof of occupation by Banoth Rachalya or his son Sakru available on record was established either during the period of alleged lease or at any time as on date. In the said orders, the Spl.Deputy Collector (TW) Paloncha did not mention anything about the deposition of Vadde Subbaiah and said lease to tribal.
- 2) In the note orders of Spl.Deputy Collector (TW), Paloncha, dt. 29.5.1999, it was ordered that "Respondents 2 & 3 i.e. Vadde Gopaiah and Vadde Gandhi be ejected by Mandal Revenue Officer from scheduled land in Sy.No. 214 measuring Acs.1.13 gts. and Sy.No.211/3 measuring Acs.8.00 and land be restored to the pattedar i.e. Vadde Subbaiah i.e. father of the petitioner." But while issuing the Ejection order, instead of restoring possession to the pattedar i.e. Vadde Subbaiah, Mandal Revenue Officer, Julurpad was directed to take possession.
- 3) In the orders of the Agent to Govt. Khammam in CMA No.25/2000, dt. 29.12.2000, it was mentioned that the Sy.No.211/3 is consisting of 8.00 acres and stands patta in the name of Vadde Subbaiah S/o Atchaiah (i.e. father of revision petitioner) for all the years right from 1959-60 to 1972-73 and the name of Vadde Gandhi i.e. son of pattedar Vadde Subbaiah and also the appellant in the CMA is existing in occupant column of the Sy.No.211/3 for the years 1959-60, 1965-66, 1966-67, 1967-68, 1969-70, 1970-71 and also in the year 1972-73 but with different ink and different hand writings and hence the same is treated as forged and confirmed orders of

Spl.Deputy Collector(TW) Paloncha. From this also, it is clear that the name of Banoth Rachalya or his son Sakru did not find place in the record. The name of Vadde Gandhi who is no other than the own and only son of Vadde Subbaiah i.e. pattedar of Sy.No.211/3 exists. Being successor of Vadde Subbaiah, his son Vadde Gandhi, i.e. the revision petitioner is entitled for possession and enjoyment.

- 4) The revision petitioner i.e. Vadde Gandhi produced tax receipts for the year 1958-59, 1960, Tax receipt No.34461, dt. 11.4.1963 (for the year 1963), 678185, dt. 6.1.1979 (for the year 1978-79), 852838, dt. 28.1.1983 (for the year 1982-83), 118501, dt. 22.11.1983 (for the year 1983-84), 137112, dt. 8.8.89 (for the year 1988-89), 930001, dt. 15.12.1989 (for the year 1989-90), 3462579 (for the years 1994-95 and 1995-96), pattedar pass book and title deeds issued Mandal Revenue Officer, Julurpad and Revenue Divisional Officer, Kothagudem. From the above, it is established that Sri Vadde Subbaiah i.e. pattedar of the land and father of Vadde Gandhi, petitioner herein have been in continuous possession and enjoyment of the land in Sy.No.211/3 measuring Acs.8.00 paying land revenue from 1958-59.
- 5) Therefore, in the absence of any recorded documentary evidence that the land was either leased out or sold to a tribal by Vadde Subbaiah (father of the revision petitioner) merely basing on a deposition given by a person in the name of Vadde Subbaiah, it cannot be held that Vadde Subbaiah i.e. father of the petitioner either sold away or leased out land in Sy.No.211/3 measuring Acs.8.00. And at the same time, possession and enjoyment of the said land by son of the pattedar, being successor cannot be treated as transfer and violative of LTR.
- 6) Hence, it is a fact that the petitioner inherited the land in dispute from his father Vadde Subbaiah who is admittedly recorded pattedar since 1959 and Sec. 3 (4) of the Regulation 1/59 clearly says that the succession or inheritance or disposition by *will* does not fall under the definition of "transfer" and as such the possession of the petitioner cannot be termed as contrary to Regulation 1/59, as there is no transfer of land in favour of the petitioner but succession.

6. Therefore, Government hereby set aside the orders of the Agent to Government Khammam in CMA No. 25/2000, dated 28.12.2000 and allowed the Revision Petition accordingly.

7. The counsel for the petitioner is requested to inform his clients accordingly. The Collector, Khammam / Addl .Agent to Government and Project Officer, I.T.D.A., Bhadrachalam are requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
PRL. SECRETARY TO GOVERNMENT

To

The Collector, Khammam District.

(RPAD With the records bearing

LTR Case file No.148/98/JLP & 264/98/JLP

containing pages CF(52) and NF 60 pages

Agent to Gov tKhammam Cma No.25/00 containing pages Cf (72) NF 74 etc.)

The Addl. Agent to Government & Project Officer, ITDA,

Bhadrachalam, Khammam.

The Spl.Dy.Collector,(TW) Bhadrachalam, Khammam District.

Sri Vadde Gandhi S/o Subbaiah (non tribal)

R/o Karivarigudem Village, Julurpad (M) Khammam District

Sri P.Nalinikanth, Advocate,

105, Srinivasa Apartments, Humayun Nagar, Hyd.28.

Copy to the P.S. to M (SW&TW)

SF/SCs.

FORWARDED:BY ORDER

SECTION OFFICER